

REMARKS

Claims 1-14 are pending in the present application.

The Office Action requires the Applicant elect a single species from each of the Office Action's groupings A-P, each of A-P being associated with a separate figure of Applicant's disclosure. Applicant provisionally elects, with traverse, to prosecute claims corresponding to Species A, including all Claims 1-14 readable thereon. It is noted that this provisional election is made merely to satisfy the requirement for compliant response despite the lack of clarity, marked deficiencies, and clear error throughout the outstanding Office Action as described in detail below.

Applicant respectfully request the withdrawal of the erroneous election of species requirement. Applicant's traversal is based on three distinct grounds, any one of which demonstrates that the election of species requirement is improper: (1) the Office Action fails to provide any reasons or examples to support its apparent conclusions of independence or distinctness and requirements under unity of invention; and (2) the Office Action fails to provide any reasons or examples (or even state or otherwise establish) that examination of all the claims would place a serious burden on the Examiner.

While the grounds for the restriction appear to be proper under MPEP § 1850, "during the national stage as a Designated or Elected Office under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories," the Examiner fails to provide reasons, support and/or examples to support his conclusions for requiring an election.

For example, the listing of asserted species A-P provides no basis for the identification or assertion of independent or distinct species. Further, the Office Action offers no relevant discussion relating to any assertion of independence or distinctness with regard to a single general inventive concept, and provides no discussion regarding any technical relationships among the species involving one or more of the same or corresponding technical features as required by PCT Rule 13.2. Further, no explanation beyond the conclusory listing of asserted Species A-P is provided. Therefore, without even a suggestion of a reason or support for asserting Species A-P, it is respectfully submitted that the requirement for election is fatally insufficient and therefore improper.

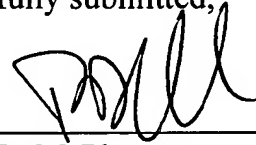
Turning to Ground (2), the lack of serious burden on the Examiner, the MPEP notes that “if the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits” (MPEP § 803, emphasis added). Despite this direction by the MPEP, the Office Action is simply silent with regard to the burden issue. Neither an explicit statement or suggestion by implication is made regarding any burden on the Examiner to examine all pending claims.

Accordingly, Applicant respectfully asserts that the Examiner has failed to establish (or even provide a prima facie showing) that examination of all active claims would place a serious burden on the Examiner. In sum, the Office Action provides no support for the election requirement and fails entirely to address the issues and support for its unity of invention rejection. Thus, the requirement for election of species is improper and must be withdrawn.

Therefore, by distinctly and specifically pointing out grounds of error in the election of species requirement, Applicant's provisional election with traverse thereby preserves Applicant's right to petition the Director to review this requirement.

In view of the improper and incomplete election of species requirement on the grounds discussed above, reconsideration and withdrawal of the election of species requirement and examination of all claims is earnestly solicited.

Respectfully submitted,



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